

Small Claims information and links are available at [www.daviscountyutah.gov/justice\\_court/default.cfm](http://www.daviscountyutah.gov/justice_court/default.cfm) or [www.utcourts.gov](http://www.utcourts.gov)

### Do I need an attorney?

You may hire an attorney to represent you, but small claims procedures are simplified to help you proceed without an attorney. You may also be represented by an employee, or, with the approval of the judge, by any other person who is not paid. This webpage will help you prosecute or defend a small claims case. The judicial service assistants can help with procedural questions, but they cannot give legal advice. If you have an unanswered question, you may need to consult an attorney.

### Statutes, rules and forms

Small claims actions are governed by the [Utah Code](#) and the [Rules of Small Claims Procedure](#). The [Rules of Civil Procedure](#) generally do not apply, unless a statute or rule says that they do. If there is a difference between the information on this webpage and the statutes and rules, the statutes and rules govern. The forms on this webpage can be printed, and filed.

### Parties

The party filing the claim is the plaintiff. The party responding to the claim is the defendant.

### Limits on small claims

Small claims cases are to recover money, and claims cannot exceed the jurisdictional limit. That limit is set by the Legislature in [Utah Code Section 78A-8-102](#). The defendant must owe the debt to the plaintiff or, on a counter affidavit, vice-versa. Small claims cases cannot be used to sue a government entity, to sue for possession of property, to evict a tenant or to recover an assigned claim.

If the claim does not satisfy these limitations, the plaintiff must file a civil complaint in the district court under the Utah Rules of Civil Procedure.

### Statutes of limitation

Small claims cases are governed by the same statutes of limitation that govern other civil cases. A statute of limitation is the time within which the plaintiff must file the case. For more information, see the Utah Courts webpage on [Statutes of Limitation](#). [www.utcourts.gov](http://www.utcourts.gov)

### Calculating time

Each step in the process has a deadline, and your claim or defense might not be heard if you miss a deadline. When a small claims rule requires you to do something within a designated number of days, exclude the day of the event that triggers the time period, then count the business or calendar days within the time period (The small claims rules state whether you count calendar days or business days.), including the last day. If the court is closed on the last day, the time period continues to the end of the first day that the court is open. For more information, see the Utah Courts webpage on [Filing Procedures](#). [www.utcourts.gov](http://www.utcourts.gov)

### Filing fees

The fee for filing a small claims affidavit or counter affidavit, motions, and applications for writs are set by the Legislature. For more information on fees, see below or the Utah Courts webpage on [Filing Fees](#). [www.utcourts.gov](http://www.utcourts.gov)

Small Claims	Subsection	Fee
\$2,000 or less	(1)(c)(i)	60.00
Greater than \$2,000 and less than \$7,500		100.00
Greater than \$7,500 and less than \$10,000		185.00
<b>Counterclaim, Cross Claim, Third Party Claim, Complaint in Intervention</b>		
\$2,000 or less	(1)(d)(i)	55.00
Greater than \$2,000 and less than \$10,000	(1)(d)(ii)	150.00
\$10,000 or more or the party seeks relief other than monetary damages	(1)(d)(iii)	155.00
Divorce or separate maintenance	(1)(d)(iv)	115.00
<b>Small Claims Counter Affidavit</b>		

\$2,000 or less	(1)(e)(i)	50.00
Greater than \$2,000 and less than \$7,500		70.00
Greater than \$7,500 and less than \$10,000		120.00

### Where to file

A small claims case must be filed in the court where the defendant resides or where the claim arose (where the events happened). Depending on the circumstances this may be the justice court or the district court.

### Serving the Affidavit and Summons

Serving papers – also called service of process – means delivering a copy of the papers to the other parties in the case. Each party must serve on all other parties a copy of any document filed with the court and then must file a Certificate of Service with the court.

There is a special rule for serving a small claims Affidavit and Summons. After the judicial service assistant has scheduled a trial, the Affidavit and Summons must be served on the defendant by one of the following methods at least 30 days before the trial date:

(a) Mail a copy of the Affidavit and Summons to the defendant by any method that requires the defendant to acknowledge receipt with a signature. (Examples are registered or certified mail with return receipt signed by addressee only or a commercial courier service that will return a receipt signed by the addressee only.) The date of service is the date the defendant signs the receipt. Note that this method of service is effective only if the defendant is willing to sign the receipt. If not, the plaintiff must deliver the Affidavit and Summons to a professional process server under (b).

OR

(b) Deliver the Affidavit and Summons to one of the officials authorized by [Utah Code Section 78B-8-302](#), who will serve it on the defendant and file a Certificate of Service with the court.

If the defendant cannot be served by one of these methods, the plaintiff must refile the case as a civil complaint and obtain alternative service under Utah Rule of Civil Procedure 4.

### Serving other papers

To serve other documents, mail the document to the other party at their last known address. For more information, see the Utah Courts webpage on [Filing Procedures](#). [www.utcourts.gov](http://www.utcourts.gov)

### Counter Affidavit and Summons

If the plaintiff owes the defendant money, the defendant may file a Counter Affidavit and Summons up to 15 days before the trial. The judicial service assistant will complete the Summons and mail a copy of the Counter Affidavit and Summons to the plaintiff. The judicial service assistant may have to reschedule the trial.

The defendant may not claim more than the jurisdictional limit. That limit is set by the Legislature in [Utah Code Section 78A-8-102](#). To claim more than the jurisdictional limit, the defendant may file a civil complaint in the district court under the Utah Rules of Civil Procedure.

### Settlement before trial

If you and the other party can agree on who should pay how much, you can settle the case at any time before trial and avoid the extra time and expense of a court judgment. If the case is settled, file a Settlement Agreement. Under a Settlement Agreement, the court will hold the case open until the date the agreement ends. If the agreement unexpectedly goes beyond that date, contact the judicial service assistant. If the parties comply with the agreement, the creditor must file a motion to dismiss the case. If the parties do not complete with the agreement, the creditor has the choice to enforce the agreement as a judgment or to proceed to trial on the original affidavit or counter affidavit.

### Postponing the trial

To change the trial date, file a Motion to Postpone at least five days before trial. A postponement is not automatic; you must give a good reason. The party requesting the postponement may be ordered to pay the other party's costs, such as the cost of preparing for trial.

### Failure to appear at trial

A party who fails to appear at trial after receiving notice of the trial is in default and will lose. A claim by a non-appearing party will be dismissed. A claim against a non-appearing party will be granted judgment. A judgment against a non-appearing party is called a default judgment. In order to obtain a default judgment, the plaintiff must file a Military Service Declaration and Military Service Order. Federal law requires this. If the plaintiff does not know whether the defendant is in military service, the judge may require the plaintiff to file a bond to protect the defendant's interests. For more information, see the Military Service Form.

## Interpreters

The court will provide and pay for an American Sign Language Interpreter but not language interpreters. If you need a language interpreter for yourself or a witness, you must make those arrangements. For more information, see the Utah Courts webpage on [Interpreters](http://www.utcourts.gov). [www.utcourts.gov](http://www.utcourts.gov)

## Subpoena

If a witness will not testify or produce a document voluntarily, you may require that person to attend or produce a document by serving a Subpoena. Subpoenas in small claims cases are governed by the same rules as for civil cases. For more information, see our webpage on [Subpoenas](http://www.utcourts.gov). [www.utcourts.gov](http://www.utcourts.gov)

## Trial

At the trial, both sides present their evidence to the judge. Usually, the plaintiff goes first, and then the defendant. The parties or their lawyers can question witnesses or the judge may allow them to "proffer" evidence. That means that each party can tell his or her side of the story as long as there is a witness present who can testify if necessary. The parties may also submit documents, photos and other evidence. Be sure to have three of every document: one for the court; one for yourself; and one for the other side. For more information, see the Utah Courts webpage on [Going to Court](http://www.utcourts.gov). [www.utcourts.gov](http://www.utcourts.gov)

## Judgment

The judge will decide the case based on the evidence, usually immediately after the trial. If the judge takes the case under advisement, s/he should issue a decision within 60 days, and the judicial service assistant will notify the parties by mail. If the judge decides for the defendant on the plaintiff's Affidavit or for the plaintiff on the defendant's Counter Affidavit, neither party owes the other any money, unless the judge orders one party to pay the other party's court costs. If the judge decides for the plaintiff on the plaintiff's Affidavit or for the defendant on the defendant's Counter Affidavit, the judge will enter a judgment for money or, if it is an interpleader case, a judgment determining the defendants' rights to money being held in trust.

In a judgment for money, the winning party is called the judgment creditor and the losing party is called the judgment debtor. The judgment principal will include court costs and prejudgment interest. The judgment principal continues to accrue interest after judgment. Unless a different interest rate was agreed to by the parties in a contract, the statutory interest rate applies. In addition to the judgment principal and post-judgment interest, the creditor is entitled to collect from the debtor the cost of collecting the judgment.

## Notice of Entry of Judgment

The judicial service assistant will deliver a copy of the Judgment to all parties present at the trial. If the judge grants a judgment to the plaintiff because the defendant failed to appear after notice, the plaintiff must immediately serve a copy of the Notice of Default Judgment on the defendant. If the judge dismisses a party's claim because the party failed to appear after notice, the appearing party must immediately serve a copy of the Notice of Dismissal on the non-appearing party.

## Motion to Set Aside an Order of Dismissal or Default Judgment

If the judge dismisses an Affidavit or Counter Affidavit without prejudice, the party can file a new case without setting aside the dismissal.

If the judge dismisses an Affidavit or Counter Affidavit with prejudice, the case cannot be re-filed, but the non-appearing party may file a Motion to Set Aside the dismissal. If the judge enters a default judgment, the non-appearing party may file a Motion to Set Aside the judgment. The party requesting that the dismissal or default judgment be set aside must file the motion within 15 days after the dismissal or default judgment, showing a good reason for not appearing at the trial. The requesting party may be ordered to pay the other party's costs, such as the cost of preparing for trial.

If the dismissal or default judgment is set aside, the judicial service assistant will reschedule the trial and notify the parties.

## Notice of Appeal

A party may appeal a small claims judgment by filing a Notice of Appeal within 30 days after the dismissal or judgment. The Notice of Appeal is filed with the court that issued the judgment. The appeal is a new trial, called a trial de novo, held in the district court. The judicial service assistant will forward the trial court's file to the district court. The parties do not file new Affidavits, but the procedures for

the trial de novo are the same as for the original trial. The parties present the evidence again, including any new evidence. The decision after the trial de novo is final and cannot be appealed.

Even if the judgment debtor files a Notice of Appeal, the judgment creditor may still collect the judgment during the appeal, unless the judge enters a “stay.” To stay the judgment and prohibit collection, the debtor must file with the district court a bond sufficient to cover the amount of the judgment. A stay is governed by [Rule of Civil Procedure 62](#).

### **Collecting a small claims judgment**

Collecting a small claims judgment is governed by the same rules as in civil cases. For more information, see our webpage on [Collecting a Judgment](#). [www.utcourts.gov](http://www.utcourts.gov)

### **Satisfaction of judgment**

When the judgment is paid, the creditor must file a Satisfaction of Judgment. A Satisfaction of Judgment must also be filed with the county recorder in each county in which an Abstract of Judgment was filed. The debtor may file a Satisfaction of Judgment if the creditor fails to do so.